

# Senate Study Bill 1158

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON LABOR  
AND BUSINESS RELATIONS BILL  
BY CHAIRPERSON DEARDEN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the provision of medical services and  
2 evaluation of permanent disabilities of injured employees  
3 under workers' compensation laws.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2059XC 82  
6 av/je/5

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1 1 Section 1. Section 85.27, subsection 4, Code 2007, is  
1 2 amended to read as follows:  
1 3 4. For purposes of this section, the employer is obliged  
1 4 to furnish reasonable services and supplies to treat an  
1 5 injured employee, and the employee has the right to choose the  
1 6 care. ~~If the employer chooses the care, the~~ The employer  
1 7 shall hold the employee harmless for the cost of the care  
1 8 ~~until the employer notifies the employee that the employer is~~  
1 9 ~~no longer authorizing all or any part of the care and the~~  
1 10 ~~reason for the change in authorization. An employer is not~~  
1 11 ~~liable for the cost of care that the employer arranges in~~  
1 12 ~~response to a sudden emergency if the employee's condition,~~  
1 13 ~~for which care was arranged, is not related to the employment~~  
1 14 chosen. The treatment ~~must~~ shall be ~~offered promptly provided~~  
1 15 in a timely manner and be reasonably suited to treat the  
1 16 injury without undue inconvenience to the employee. If the  
1 17 ~~employer or~~ employee has reason to be dissatisfied with the  
1 18 care offered ~~or provided~~, the ~~employer or~~ employee ~~should~~  
1 19 shall communicate the basis of such dissatisfaction to the  
1 20 ~~employee or~~ employer, in writing ~~if requested~~, following which  
1 21 the employer and the employee may agree to alternate care  
1 22 reasonably suited to treat the injury. If the employer and  
1 23 employee cannot agree on such alternate care, the commissioner  
1 24 may, upon application and reasonable proofs of the necessity  
1 25 therefor, allow and order other care. ~~In an emergency, the~~  
1 26 ~~employee may choose the employee's care at the employer's~~  
1 27 ~~expense, provided the employer or the employer's agent cannot~~  
1 28 ~~be reached immediately. An application made under this~~  
1 29 subsection shall be considered an original proceeding for  
1 30 purposes of commencement and contested case proceedings under  
1 31 section 85.26. The hearing shall be conducted pursuant to  
1 32 chapter 17A. Before a hearing is scheduled, the parties may  
1 33 choose a telephone hearing or an in-person hearing. A request  
1 34 for an in-person hearing shall be approved unless the  
1 35 in-person hearing would be impractical because of the distance  
2 1 between the parties to the hearing. The workers' compensation  
2 2 commissioner shall issue a decision within ~~ten~~ thirty working  
2 3 days of receipt of an application for alternate care ~~made~~  
2 4 ~~pursuant to a telephone hearing or within fourteen working~~  
2 5 ~~days of receipt of an application for alternate care made~~  
2 6 ~~pursuant to an in-person hearing. The~~ After receiving notice  
2 7 of an injury, the employer shall promptly notify an injured  
2 8 employee of the employee's ~~ability to contest the employer's~~  
2 9 ~~choice of right to choose~~ care pursuant to this subsection and  
2 10 the employer and the employer's insurer shall not make  
2 11 suggestions or otherwise attempt to influence the injured  
2 12 employee's choice of a treating physician.  
2 13 When it is medically indicated that no significant  
2 14 improvement from an injury is anticipated, the employer shall  
2 15 obtain a medical opinion regarding the extent of the  
2 16 employee's permanent disability and may arrange for a medical  
2 17 examination of the injured employee in order to do so. The

~~2 18 employee shall be paid wages, at the employee's regular rate,  
2 19 plus whatever reasonable transportation expenses are incurred  
2 20 while attending the examination. The physician chosen by the  
2 21 employer to conduct the examination has the right to confer  
2 22 with and obtain from any physician retained by the injured  
2 23 employee sufficient history of the injury to make a proper  
2 24 examination. The refusal of the employee to submit to the  
2 25 examination shall suspend the employee's right to any  
2 26 compensation during the period of the refusal. Compensation  
2 27 shall not be payable for the period of the suspension.~~

2 28 Sec. 2. Section 85.39, unnumbered paragraph 1, Code 2007,  
2 29 is amended to read as follows:

~~2 30 After an injury, the employee, if requested by the  
2 31 employer, shall submit for examination at some reasonable time  
2 32 and place and as often as reasonably requested, to a physician  
2 33 or physicians authorized to practice under the laws of this  
2 34 state or another state, without cost to the employee; but if  
2 35 the employee requests, the employee, at the employee's own  
3 1 cost, is entitled to have a physician or physicians of the  
3 2 employee's own selection present to participate in the  
3 3 examination. After the employer obtains a medical opinion  
3 4 regarding the extent of an injured employee's permanent  
3 5 disability pursuant to section 85.27, subsection 4, and if the  
3 6 injured employee believes that the evaluation of the permanent  
3 7 disability contained in the opinion is too low, the employee  
3 8 has the right to obtain another medical opinion from a  
3 9 physician of the employee's choice, at the employer's expense.~~

~~3 10 If an employee is required to leave work for which the  
3 11 employee is being paid wages to attend the requested an  
3 12 examination to obtain another medical opinion, the employee  
3 13 shall be compensated at the employee's regular rate for the  
3 14 time the employee is required to leave work, and the employee  
3 15 shall be furnished transportation to and from the place of  
3 16 examination, or the employer may elect to pay the employee the  
3 17 reasonable cost of the transportation. The refusal of the  
3 18 employee to submit to the examination shall suspend the  
3 19 employee's right to any compensation for the period of the  
3 20 refusal. Compensation shall not be payable for the period of  
3 21 suspension.~~

3 22 Sec. 3. Section 85.39, unnumbered paragraph 2, Code 2007,  
3 23 is amended by striking the unnumbered paragraph.

3 24 EXPLANATION

3 25 This bill relates to the provision of medical services and  
3 26 evaluation of permanent disabilities of injured employees  
3 27 under the workers' compensation law.

3 28 Code section 85.27, subsection 4, is amended to give an  
3 29 injured employee, instead of the employer, the right to choose  
3 30 the provider of medical services, at the employer's expense.

3 31 If either the employee or the employer is dissatisfied with  
3 32 the care offered or provided, written notice must be given to  
3 33 the other party, and upon application and hearing the workers'  
3 34 compensation commissioner may allow and order other care. A  
3 35 decision for alternate care must be issued by the commissioner  
4 1 within 30, instead of 10, working days after receipt of the  
4 2 application for alternate care.

4 3 Upon receiving notice of an injury, an employer is also  
4 4 required to promptly notify an injured employee of the  
4 5 employee's right to choose medical care and the employer and  
4 6 the employer's insurer are prohibited from making suggestions  
4 7 or otherwise attempting to influence the injured employee's  
4 8 choice of a treating physician.

4 9 When it is medically indicated that no significant  
4 10 improvement from an injury is anticipated, the employer is  
4 11 required to obtain a medical opinion regarding the extent of  
4 12 the employee's permanent disability and may arrange for a  
4 13 medical examination of the injured employee in order to do so.  
4 14 The employee must be paid regular wages and reasonable  
4 15 transportation expenses incurred while attending the  
4 16 examination. The physician chosen by the employer is entitled  
4 17 to confer with and obtain from any physician retained by the  
4 18 injured employee sufficient history to conduct a proper  
4 19 examination. The refusal of an employee to submit to the  
4 20 examination suspends the employee's right to any compensation  
4 21 during the period of the refusal. Compensation is not payable  
4 22 for the period of the refusal.

4 23 Code section 85.39 is amended to provide that after the  
4 24 employer obtains a medical opinion regarding the extent of an  
4 25 injured employee's permanent disability pursuant to Code  
4 26 section 85.27, subsection 4, and if the employee believes the  
4 27 extent of permanent disability identified in the opinion is  
4 28 too low, the employee has the right to obtain another medical

4 29 opinion from a physician of the employee's choice, at the  
4 30 employer's expense.  
4 31 LSB 2059XC 82  
4 32 av:rj/je/5